

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

UNITED STATES OF AMERICA) No. EP-13-CR-370-DB
)
vs.) El Paso, Texas
)
MARCO ANTONIO DELGADO) August 21, 2014

MOTION FOR INTERLOCUTORY ORDER OF SALE
(Continuation)

A P P E A R A N C E S:

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Proceedings reported by stenotype. Transcript produced by
computer-aided transcription.

1 MR. HANSHEW: The clerk will call the case.

2 THE CLERK: EP-13-CR-370, Marco Antonio Delgado.

3 MS. ARREOLA: Good morning, Your Honor. Anna Arreola
4 for the United States along with AUSA Debra Kanof.

5 MR. HANSHEW: Good morning, Your Honor. Maureen
6 Franco and Erik Hanshew on behalf of Mr. Delgado.

7 THE COURT: Okay, Counsel, this is a continuation of a
8 hearing we had a couple of weeks ago.

9 Who's going first? Do you have any witnesses, the
10 Government?

11 MS. ARREOLA: Your Honor, there are just two issues
12 that were raised in the latest filing for Mr. Delgado that the
13 Government wanted to briefly address with the Court.

14 One is with respect to the authenticity of the
15 documents from the Taos County Treasurer's Office regarding the
16 unpaid taxes. And the other was the lack of insurance which
17 basically Mr. Velarde had represented to the Government he had
18 never bought insurance. There's a special agent from Homeland
19 Security who's sitting outside the courtroom who can testify as
20 to these two matters. In other words how HSI obtained the tax
21 documents and a conversation with Mr. Velarde in which he
22 confirmed that he had never gotten insurance on the property.

23 THE COURT: Well, I presume that he -- I wouldn't get
24 it either, if I'm not really the owner. It may be in my
25 name -- it may be in his name but he's not really the owner.

1 But let me tell you, I don't want to hear any more
2 testimony especially from the Government. I gave you an
3 opportunity to present any testi- -- Mr. Velarde, I take it, is
4 not here then? He does not want to be here?

5 MS. KANOF: Your Honor, my understanding was that he
6 was willing to accept a subpoena. Defense Counsel implied that
7 he was going to subpoena him and he never -- we talked to him
8 this morning. He never received a subpoena so he thought he
9 wasn't needed.

10 THE COURT: Okay. What do you have, Mr. Hanshaw?

11 MR. HANSHEW: Your Honor, we have no further evidence.
12 As we've noted in our sur-reply, the Government failed to
13 provide the evidence needed including much of it which would
14 have come from Mr. Velarde and that was their decision,
15 Your Honor. So we feel confident that, as the Court noted at
16 the last hearing, that it's inappropriate at this time in this
17 case to make a ruling in favor of this motion and lacks the
18 evidence and I would ask the Court to do the same.

19 THE COURT: Counsel, let me tell you what I think. I
20 think you all are expending a bunch of effort on this thing,
21 quite frankly, and it's not worth it. I think you all should
22 be concentrating on expending that effort for your trial, quite
23 frankly, both sides.

24 I've gone through all these pleadings, sur-reply,
25 reply and all these, both sides, you bring up arguments that --

1 Mr. Hanshew, it's like you've been insulted. I take it they're
2 your pleadings. I don't think they're Ms. Franco's. It's like
3 you've been insulted by some of the actions of the Government
4 and they're kind of confrontational. I don't -- if this is the
5 way it's going to be for the trial, believe me, we're going
6 to -- we're going to be involved in a lot of sidetracks instead
7 of taking evidence and so forth.

8 I'm not going to order the sale. I'll tell you that
9 right now. I'm not going to order it. I think it's unwise not
10 to. I don't see what he's got to gain by leaving it -- leaving
11 it there. He already has a sentence of 20 years on the other
12 case, but if that's what he wants and you all are going to
13 fight it...

14 I don't think the Government has proven its case. I
15 don't think it should be sold. I'm ordering that it not be
16 sold, but I'm also asking you all to concentrate on the trial
17 or settling it before trial and not go off on all of these --
18 spend time on all of these pleadings that both of you have
19 done.

20 So with that, you may be excused. We'll be in recess.

21 * * * * *

CERTIFICATION

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. I further certify that the transcript fees and format comply with those prescribed by the Court and the Judicial Conference of the United States.

Date: August 25, 2014

/s/ Maria del Socorro Briggs

Maria del Socorro Briggs